

U.S. government is endangering the lives of thousands of women and children

June 2018

As an international organization that recognizes that sexual and gender-based harassment and violence are contrary to its core principles and which advocates strongly for human rights and women's rights, the Latin American Studies Association (LASA) finds Attorney General Jeff Sessions' over-ruling of the Matter of A-R-COG, 26 I & M 338 (BIA 2014) to be contrary to the protections that U.S. asylum law should afford to refugees. The Executive Council of LASA is deeply troubled by Session's ruling and its implications for women and child refugees who have a legal right to protection under U.S. and international law. Here is why.

The UN Human Rights Committee estimates women and girls make up roughly half the 65.6 million refugees displaced from their homes worldwide. There is growing recognition that female refugees are differentially affected by armed conflict, humanitarian crises, and non-state violence. Given that one in three women worldwide has experienced either physical and/or sexual intimate partner violence and that non-state and state actors often rely on gendered violence to control communities, gendered violence is also a leading reason why many women and girls flee their communities. Increased awareness of the unique nature of women's gendered experiences of violence, displacement and migration has prompted important legal reforms. Over the past two decades, U.S. immigration courts have produced important legal precedents that recognized gendered violence as a valid basis for asylum. This is part of a broader international movement to recognize women's rights to safety and security and to live lives free of gendered and domestic violence. These rights are human rights.

In the US, Guatemalan women—Ms. Alvarado and Ms. Cifuentes—fought to establish gendered violence as a valid basis for asylum between 1999 and 2014. More recently, a Salvadoran woman known as A.B. fled to the U.S. after suffering long-term violence and after going to the Salvadoran police, who did nothing about it. She told a New York Times reporter that when she was pregnant with her second child, her husband beat her a lot, threatened to hang her, and kicked her in the back. She moved to another part of El Salvador, but her husband found her and raped her. "El Salvador is a small place," she reported. "I used to go to the police, but they didn't do anything." She fled to Texas, was picked up and permitted to stay in the U.S. while her asylum case was pending. Immigration Judge V. Stuart Couch heard her case in North Carolina and denied her asylum. She appealed and won. Then Attorney General Jeff Sessions picked the case to review.

On June 11, 2018, Sessions reversed a 2016 ruling by the Justice Department's Board of Immigration Appeals, that granted asylum to A.B. Session's reasoning was based on an argument that domestic violence victims are not persecuted as members of "a particular social group." In the precedent setting case of Ms. Cifuentes, discussed above, it was found that an applicant could qualify for asylum as member of a particular social group of "married women in Guatemala who are unable to leave their relationship." The Board of Immigration Appeals found that in Guatemala spousal rape is common and police fail to enforce domestic violence laws. Sessions disagreed and undid this precedent.

Sessions slammed the door of the U.S. asylum system shut for women whose cases for asylum are based on gendered and domestic violence that are a part of the almost 300,000 backlogged asylum cases already in the immigration system. And he put up a no-entry sign for thousands more who have fled hoping for relief from gendered and other violence that they are entitled to under U.S. asylum law.

As stated by Karen Musalo, director of the Center for Gender & Refugee Studies at the University of California Hastings College of Law and co-counsel in the precedent setting cases cited above, and also to A.B., the ruling “marks a shameful attempt by Sessions to return us to an era when the United States did not recognize women’s rights as human rights, and women fleeing horrific gender-based persecution were wrongfully denied refugee protection”.

The U.S. government is turning its back on and endangering the lives of thousands of women and children who are victims of violence and gang-related crimes. These are people who have been forced to flee due to rampant corruption, weak criminal justice institutions, and the widespread practice of gendered violence in their countries of origin. They have nowhere to turn for protection. We join forces with legal, academic, and other professional organizations that stand by women’s and children’s human rights and call for domestic violence survivors who meet the legal requirements for asylum to continue to be provided a fair opportunity to present their individual claims.

About LASA

The Latin American Studies Association (LASA) is the largest professional association in the world for individuals and institutions engaged in the study of Latin America. With over 12,000 members, over 65% of whom reside outside the United States, LASA is the one association that brings together experts on Latin America from all disciplines and diverse occupational endeavors, across the globe. LASA’s mission is to foster intellectual discussion, research, and teaching on Latin America, the Caribbean, and its people throughout the Americas, promote the interests of its diverse membership, and encourage civic engagement through network building and public debate..

If you wish to interview a LASA Executive Council member, you can contact the LASA communications office at (412) 648-7929 or lasa@lasaweb.org.

LATIN AMERICAN STUDIES ASSOCIATION

416 Bellefield Hall
University of Pittsburgh
Pittsburgh, PA 15260
lasa@lasaweb.org
Tel: 412-648-7929
Fax: 412-624-7145

